

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GRIFFIN KNIGHT,

Plaintiff,

v.

Case No. 2:08-cv-14690

HONORABLE STEPHEN J. MURPHY, III

SHERRY ALLEN-SABO,

Defendant.

/

**ORDER ADOPTING THE MAGISTRATE
JUDGE'S REPORT AND RECOMMENDATION**

(document no. 35), **DISMISSING THIS CASE FOR LACK
OF PROSECUTION, AND DENYING AS MOOT DEFENDANT'S
MOTION FOR SUMMARY JUDGMENT** (document no. 21) **AND
PLAINTIFF'S MOTIONS FOR A PRELIMINARY INJUNCTION**
(document no. 1), AND TO EXPEDITE SCHEDULING (document nos. 36-37)

In this action the plaintiff Griffin Knight, proceeding *pro se*, seeks damages and an injunction to prevent what he alleges is the defendant's unlawful attempts to evict him from his apartment. Because Knight alleges that his housing arrangement is subject to Section 8 of the United States Housing Act, and that defendants are acting in contravention of the eligibility and renewal provisions of the Act, this Court has jurisdiction over the case pursuant to 28 U.S.C. § 1331.

The Court has referred this case for all pretrial matters to Magistrate Judge Michael Hluchaniuk. On January 30th, 2009, the defendant moved for summary judgment. On February 12th, Judge Hluchaniuk issued an order requiring a response. Document no. 29. Knight's only response was to file copies of a petition for a writ of mandamus he had filed with the Court of Appeals for the Sixth Circuit. Document no. 31. Knight apparently filed this petition because he was unhappy with Judge Hluchaniuk's report and recommendation that his motion for a preliminary injunction be denied, see document no. 8, and with this

Court's failure to hold what Knight refers to has as a "de novo hearing" to review that recommendation. Knight's dissatisfaction appears to arise in part from his mistaken impression that, in reviewing Judge Hluchaniuk's report and recommendation, this United States District Court must adhere to the State of Michigan's rules governing review of referee decisions by a trial court. In any event, at the time he filed his petition for mandamus, this Court was unable to hold any hearing on the preliminary injunction motion because Knight had filed a notice of appeal of Judge Hluchaniuk's report and recommendation to the United States Court of Appeals for the Sixth Circuit, divesting this Court of jurisdiction over that matter. See document no. 12.

On June 12th, 2009, Judge Hluchaniuk ordered Knight to show cause why his case should not be dismissed for lack of prosecution, based on his failure to respond to the motion for summary judgment. Document no. 34. Knight offered no response whatsoever. Accordingly, on July 6th, Judge Hluchaniuk issued a report and recommendation that the case be dismissed for want of prosecution, and the motion for summary judgment be denied as moot. Knight immediately responded by once again continuing to litigate the preliminary-injunction motion, filing two motions to expedite the "de novo hearing" on that matter. He did not even purport to file any objection to Judge Hluchaniuk's most recent report and recommendation itself, nor has the defendant.

The Court's standard of review for a magistrate judge's report and recommendation depends upon whether a party files objections. If a party does not object to the report and recommendation, the Court does not need to conduct a review by any standard. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Because neither party filed timely objections to Magistrate Judge Hluchaniuk's report and recommendation, see 28 U.S.C. § 636(B)(1)(c); Fed. R. Civ. P. 6(e), this Court need not and will not conduct a review.

WHEREFORE, it is hereby **ORDERED** that the Report and Recommendation is **ACCEPTED** and **ADOPTED** as the opinion of this Court.

It is further **ORDERED** that this case is **DISMISSED WITH PREJUDICE**, for lack of prosecution. Plaintiff's motion for a preliminary injunction, defendant's motion for summary judgment, and plaintiff's motions "to expedite scheduling *de novo* hearing" are **DENIED AS MOOT**.

SO ORDERED.

s/Stephen J. Murphy, III
STEPHEN J. MURPHY, III
United States District Judge

Dated: August 18, 2009

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 18, 2009, by electronic and/or ordinary mail.

Alissa Greer
Case Manager